

An Amendment After Final for the parent was filed 7/27/98, but not entered for the reasons given in the Advisory Action of July 31, 1998. This Preliminary Amendment will essentially repeat the discussion of the non-entered Amendment After Final of 7/27/98.

**REMARKS**

It should be noted that the first page of the Office Action, made final, (4/28/98) of the parent Serial No. 08/709,221 makes note that claims 1-14 are pending, whereas the remainder of that Office Action correctly refers to claims 1-15 as being pending. Further, the Advisory Action of 7/31/98 of the parent still only refers to claims 1-14.

Claims 13-15 stand rejected under 35 USC §112, second paragraph in the Office Action of 4/28/98, made final, of the parent application.

The Examiner in the Office Action of 4/28/98 makes reference to the variables of "X, Y, and Z" of claims 13 and 14 as being indefinite. Further, the Examiner in the Advisory Action of 7/31/98 notes "removal of X, Y, Z raises another 112-2 issue as being unclear to what applicant is trying to define as the scope of the invention." Applicant has rewritten claims 13 and 14 of the Continuation-in-Part application so as to more clearly define the subject matter of the invention.

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The preamble of claim 13 of the continuation-in-part calls for a machine-readable computer program code "to define a predetermined schedule of Bingo cards."

Claim 13, step (a) calls for receiving and storing blocks of predetermined numbers and blocks of predetermined patterns with said blocks of numbers and patterns defining said Bingo cards.

Claim 13, step (b) calls for processing input requests to said computer so as to retrieve one of said defined Bingo cards.

Claim 13, steps (c), (d) and (e) further calls for processing further input requests, comparing numbers and continuing the processing and comparing until the step (b) calls for a different one of said already defined Bingo cards called out for in the preamble of claim 13.

Claim 14 has been amended in a manner similar to claim 13 except it recites the manipulations needed for playing lottery game tickets.

For the reasons given above, it is respectfully solicited that the 35 USC §112 rejection of claims 13-15 be withdrawn.

Claims 1-15 stand rejected under 35 USC §103 in the parent Serial No. 08/709,221 as being unpatentable based on Itkis in view

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of Pocock et al (U.S. Patent 5,297,802). Applicant respectfully disagrees with this rejection for the reasons given below.

The Examiner's suggested combination is fatally flawed because neither reference suggests such a combination and because the Examiner is utilizing his own interpretation of the references and the non-enabling reference of Pocock et al in his rejection.

The Pocock et al reference describes a system that is used by the operator of games such as those that are viewed by the general public on television, whereas the present invention is a hand-held system that assists an individual in the actual playing of bingo or lottery. The disparity between the different systems prevents any encouragement or suggestion of the Examiner's combination and this combination is especially flawed with regard to the Pocock et al reference.

The Pocock et al reference is non-enabling because it cannot stand on its own merits. More particularly, the Examiner refers to Pocock et al as a reference that provides incomplete Bingo card storage, and because the massive amount of needed complete storage is uneconomical, the Examiner then looks to a person skilled in the art to recognize in the future that the cost of memory is going down and eventually the combined economical system of Itkis and Pocock et al will render obvious applicant's recited invention. The Examiner's rejection must be based upon the prior art at the

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time of the invention and cannot be based on some economical condition that can possibly never occur.

Contrary to what the Examiner states, Pocock et al does not teach that bingo cards can be stored within his system. The system of Pocock et al is based on calculating individual bingo cards via special algorithms because the system described by Pocock et al is one that is used by the operator of the game in monitoring all of the bingo cards that it has sold and are in play for any one game which is unlike the present invention, that is, a system that is used by individual players having predetermined bingo cards.

The system of Pocock et al must take into account all bingo which is quite different than the recited invention. More particularly, because of the programmability of the system of the present invention, the present invention can load the bingo cards that will be required to be used in a given portion of the marketplace without having to deal with storing every conceivable bingo card which may never be an achievable feat, especially for Pocock et al.

A bingo card is comprised of 75 numbers on a five-by-five matrix. Each column of the card is individually identified as "B," "I," "N," "G," and "O." The "B" column will only have five numbers within the range of 1 through 15. The "I" column will have five numbers within the range of 16 through 30. The "N" column will

only have five numbers within the range of 31 through 45. The "G" column will only have five numbers within the range of 46 through 60. The "O" column will only have five numbers within the range of 61 through 75.

Pocock et al disclose that there are 3003 ways to arrange any one of these columns. Pocock et al further disclose that this in turn translates into a maximum of 244 quadrillion ( $2.44 \text{ E}+17$ ) different bingo cards.

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This massive number of 244 quadrillion is actually a great deal larger. More particularly, the calculation of Pocock et al of 3003 ways to arrange one of the columns actually represents 3003 combinations for choosing 5 numbers out of 15 numbers. However, by definition, a combination is "... a grouping or selection of all or part of a number of things without reference to the arrangement of the things selected." Bingo cards have their columns arranged by a permutation which by definition is "... an arrangement of all or part of a number of things in a definite order." Accordingly, by using the definition of permutations there are actually 360,360 ways to arrange each column of a bingo card which, in turn, translates into a maximum of  $6.08 \text{ E}+27$  different bingo cards.

Each bingo card will require 50 bytes of storage capacity. Using the calculation for the maximum number of bingo cards ( $6.08 \text{ E}+27 \times 50$ ), a system would require a storage capacity of  $3.04 \text{ E}+29$

bytes. This amount of data storage is overwhelming when one considers that at the present time the best available personal computer has 6.0 E+9 (6 gigabytes) of storage capacity.

In light of the above, it can only logically be considered that the Examiner's assumption is in error and that the method of retrieving all bingo cards was obvious to Pocock et al and that they did not pursue this avenue simply because of the "economics." The Examiner further states that "... the price of memory is always going down therefore what was once uneconomical because of its cost becomes economical" is misleading. It is not a simple matter of doubling or tripling memory capacity. To use the combination of Itkis and Pocock et al would mean increasing memory capacity exponentially.

While it is true that one drawback is price, Pocock et al stress within the same argument that "... a bingo ball must be played against all the cards in play rapidly in the time it takes to select a bingo ball and show it to the audience and have them mark their cards." This period of time varies between a couple of second upwards to 20 seconds.

Following the teachings of Pocock et al, the Examiner's argument that it was obvious to Pocock et al to have constructed a system that could prestore all of the potential bingo cards is further flawed. The speed of the computer would never be able to

keep up with the calculations because it would have to scan 3.04 E+29 bytes of memory and to be ready in time to mark and check the cards again in time for the next drawn ball. The speed of computer technology would also have to increase exponentially.

Pocock et al resolve their problem by using algorithms which utilize the 3003 aforesaid combinations to calculate their version of any bingo card that they wish to monitor. Their system is further constrained by the fact that it can only be used in an environment that uses the version of electronic bingo cards taught by Pocock et al.

From the above, assuming for the point of discussion that Itkis and Pocock et al are combinable, even though neither reference makes such a suggestion, the combined system would be at best impractical, but most likely inoperable. The Examiner's offering of an impractical or inoperable system does not satisfy the Examiner's burden of establishing a prima facie case of obviousness and, thus, the Examiner must withdraw the 35 USC §103 rejection of claims 1-15.

Added claims 16 and 17 both dependent on claim 1 recite further details of the present invention and are believed to be allowable for the reasons given for claim 1.

Applicant in this preliminary amendment and in the associated

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Continuation-in-Part application has presented claims 13-15 that are believed to have overcome the 35 USC §112 of the parent 08/709,221. Moreover, applicant has presented arguments believed to overcome the 35 USC §103 rejection of claims 1-15. Further, the added claims 16 and 17 are also considered patentable. Accordingly, it is requested that claims 1-17 of this Continuation-in-Part application be allowed.

Respectfully submitted,

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